

702 KAR 1:140. Student records; hearing procedures.

RELATES TO: KRS 160.730

STATUTORY AUTHORITY: KRS 156.070, 160.730

NECESSITY, FUNCTION, AND CONFORMITY: KRS 160.730 provides for parents or eligible students to challenge the content of a student record to ensure that the record or report is not inaccurate, misleading, or otherwise in violation of privacy or other rights of the student. KRS 160.370 also mandates that the Department of Education establish by administrative regulation hearing procedures that may be utilized to challenge the content of a student record when no agreement can be reached. This administrative regulation establishes those hearing procedures.

Section 1. If a school decides not to comply with a request of a student's parent(s) or legal guardian to amend the education record of the student, the school shall notify the student's parent(s) or guardian of the decision and advise them of their right to a hearing to challenge the information believed to be inaccurate, misleading, inappropriate, or in violation of the student's rights.

Section 2. Hearing Procedures. (1) Upon request, the school district shall arrange for a hearing to be held within thirty (30) days after the request for hearing and notify the student's parent(s) or guardian, reasonably in advance, of the date, place, and time of the hearing.

(2) The hearing shall be conducted by a hearing officer who is a disinterested party and is a certified official of the district appointed by the superintendent.

(3) The hearing shall be private. Persons other than the student, parent(s), witnesses, and counsel shall not be admitted into the hearing.

(4) The hearing officer shall hear evidence from the school staff and the student's parent(s) or guardian to determine any points of disagreement regarding the records.

(5) The student's parent(s) or guardian shall be afforded a full and fair opportunity to present evidence relevant to the issues raised in the original request to amend the student's education records. The parent(s) or guardian may be assisted by one (1) or more individuals, including an attorney.

(6) The hearing officer shall make a determination after hearing the evidence in writing within ten (10) working days following the close of the hearing. The hearing officer shall make a determination based solely on the evidence presented at the hearing, and shall include a summary of the evidence and the reason for the decision. The parties to the hearing shall be provided a copy of the hearing officer's decision.

Section 3. Posthearing Procedures. (1) If the hearing officer decides after the hearing the challenged information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, the hearing officer shall inform the student's parent(s) or guardian of the right to place a statement in the record commenting on the contested information or stating why he disagrees with the decision of the hearing officer. The statement shall be maintained as a part of the student's education records as long as the contested portion is maintained. If the school district discloses the contested portions of the record, it shall also disclose the statement.

(2) If, as a result of the hearing, the hearing officer decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, the school district shall amend the record accordingly and inform in writing the student's parent(s) or guardian of the amendment.

Section 4. Alternative Hearing Procedures. If a school district has a records hearing policy and procedure that provides a substantially equivalent level of due process protection as provided in this administrative regulation, the school district may elect to submit its policy on records hearing proce-

dure to the Department of Education, Office of Legal Services, for its review and approval as to compliance with this administrative regulation. (21 Ky.R. 2861; Am. 22 Ky.R. 45; eff. 7-6-95.)